

# **TWENTIETH DAY**

---

**TUESDAY, FEBRUARY 18, 1997**

---

## **PROCEEDINGS**

The Senate met at 12:00 noon pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

The President announced that a quorum of the Senate was present.

The Reverend Dr. Clint Davis, First Baptist Church, Mount Pleasant, offered the invocation as follows:

Our Father, we thank You for this day. I thank You for the opportunity to come and walk through this beautiful building and see the history as it unfolds architecturally and to see the pictures. Lord, I thank You for the privilege of being a citizen of this state. I am reminded as I walk around that You have told us that You have ordained the government and that You use it and You bless it. For that reason, Father, I know today that these men and women are not here by accident but they are here by Your plan, by Your design. I pray that You would use them and You would bless them as they are a part of what You are unfolding all around us. I pray that You give them wisdom and courage to do those things that are not simply expedient but to make those decisions and choices that are best for the citizens of this state, that we might be blessed and helped and that, in turn, we might be an example to this nation. Father, I thank You for these that You have chosen and today I pray that You will bless them and use them as Your servants. We thank You. In Christ we pray. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

## **CO-AUTHOR OF SENATE BILL 78**

On motion of Senator Ellis and by unanimous consent, Senator Whitmire will be shown as Co-author of SB 78.

**CO-AUTHOR OF SENATE BILL 80**

On motion of Senator Ellis and by unanimous consent, Senator Gallegos will be shown as Co-author of **SB 80**.

**CO-AUTHORS OF SENATE BILL 159**

On motion of Senator Haywood and by unanimous consent, Senators Bivins and Wentworth will be shown as Co-authors of **SB 159**.

**CO-AUTHOR OF SENATE BILL 226**

On motion of Senator Madla and by unanimous consent, Senator Duncan will be shown as Co-author of **SB 226**.

**CO-AUTHOR OF SENATE BILL 227**

On motion of Senator Madla and by unanimous consent, Senator Duncan will be shown as Co-author of **SB 227**.

**CO-AUTHORS OF SENATE BILL 266**

On motion of Senator Ellis and by unanimous consent, Senators Barrientos, Cain, Carona, Gallegos, Luna, Madla, Moncrief, Shapleigh, Truan, Wentworth, and West will be shown as Co-authors of **SB 266**.

**CO-AUTHOR OF SENATE BILL 310**

On motion of Senator Brown and by unanimous consent, Senator Patterson will be shown as Co-author of **SB 310**.

**CO-AUTHORS OF SENATE BILL 407**

On motion of Senator Harris and by unanimous consent, Senators Gallegos, Lucio, Moncrief, and Shapiro will be shown as Co-authors of **SB 407**.

**CO-AUTHOR OF SENATE BILL 411**

On motion of Senator Nelson and by unanimous consent, Senator Shapiro will be shown as Co-author of **SB 411**.

**CO-AUTHOR OF SENATE BILL 425**

On motion of Senator Barrientos and by unanimous consent, Senator Luna will be shown as Co-author of **SB 425**.

**CO-AUTHOR OF SENATE BILL 427**

On motion of Senator Haywood and by unanimous consent, Senator Carona will be shown as Co-author of **SB 427**.

**CO-AUTHOR OF SENATE BILL 429**

On motion of Senator Duncan and by unanimous consent, Senator Carona will be shown as Co-author of **SB 429**.

**CO-AUTHOR OF SENATE BILL 464**

On motion of Senator Harris and by unanimous consent, Senator Wentworth will be shown as Co-author of **SB 464**.

**CO-AUTHOR OF SENATE BILL 530**

On motion of Senator Duncan and by unanimous consent, Senator Carona will be shown as Co-author of **SB 530**.

**CO-AUTHOR OF SENATE CONCURRENT RESOLUTION 15**

On motion of Senator Ellis and by unanimous consent, Senator Ratliff will be shown as Co-author of **SCR 15**.

**CO-AUTHOR OF SENATE CONCURRENT RESOLUTION 16**

On motion of Senator Ellis and by unanimous consent, Senator Ratliff will be shown as Co-author of **SCR 16**.

**SENATE BILLS AND RESOLUTION ON FIRST READING**

The following bills and resolution were introduced, read first time, and referred to the committees indicated:

**SB 572** by Fraser

Relating to the transfer of the University of Central Texas to The Texas A&M University System.

To Committee on Finance.

**SB 573** by Wentworth

Relating to creating a commercial real estate broker's lien.

To Committee on State Affairs.

**SB 574** by Sibley, Ellis, Ogden, West

Relating to tuition revenue bonds for certain institutions of higher education.

To Committee on Finance.

**SB 575** by Nelson

Relating to the recognition of a same-sex marriage.

To Committee on State Affairs.

**SB 576** by Sibley, Armbrister

Relating to the establishment of the Texas new horizons scholarship fund to exempt worthy high school graduates from tuition and fees at public institutions of higher education.

To Committee on Finance.

**SB 577** by Haywood

Relating to certain exemptions from regulation under the Real Estate License Act.

To Committee on State Affairs.

**SB 578** by Harris

Relating to standing for certain stepparents and stepgrandparents in a suit affecting the parent-child relationship.

To Committee on Jurisprudence.

**SB 579** by Harris

Relating to the regulation of manufactured housing; providing penalties.

To Committee on State Affairs.

**SB 580 by Duncan**

Relating to application of the professional prosecutors law to the county attorney of Crosby County.

To Committee on Criminal Justice.

**SB 581 by Ratliff**

Relating to the cost of operation and administration of the state lottery.

To Committee on Finance.

**SB 582 by Ratliff, Bivins**

Relating to the application of the oil production tax to new or expanded enhanced recovery projects.

To Committee on Finance.

**SB 583 by Ratliff**

Relating to design-build projects for school districts.

To Committee on Education.

**SB 584 by Ogden, Lucio**

Relating to restrictions on spending by state agencies for certain employee benefits, fees, or membership dues.

To Committee on Finance.

**SB 586 by Moncrief**

Relating to the creation of the Guardianship Advisory Board and the establishment of local guardianship centers.

To Committee on State Affairs.

**SB 587 by Barrientos, Lucio**

Relating to water safety; providing penalties.

To Committee on Natural Resources.

**SB 588 by Barrientos**

Relating to participation in and benefits and administration of retirement systems for police officers in certain municipalities.

To Committee on Intergovernmental Relations.

**SB 589 by Haywood**

Relating to contracts to provide services under the health insurance program administered by the Teacher Retirement System of Texas.

To Committee on State Affairs.

**SB 590 by Duncan, Bivins**

Relating to the adoption or increase of local sales and use taxes by a municipality or county in which previous elections adopting the taxes are invalid.

To Committee on Intergovernmental Relations.

**SB 591 by Gallegos**

Relating to courses and programs at the University of Houston Downtown.

To Committee on Finance.

**SB 592 by Gallegos**

Relating to authorizing the issuance of revenue bonds for the University of Houston-Downtown.

To Committee on Finance.

**SB 593** by Gallegos

Relating to the procedure for promoting fire fighters and police officers in certain municipalities.

To Committee on Intergovernmental Relations.

**SB 594** by Gallegos

Relating to creating the Office of Natural Resource Public Interest Counsel; creating a criminal penalty.

To Committee on Natural Resources.

**SB 595** by Ratliff

Relating to Cooper Lake State Park.

To Committee on Natural Resources.

**SCR 25** by Armbrister

Encouraging the Texas Department of Transportation to apply technological advancements to our state's transportation infrastructure.

To Committee on International Relations, Trade, and Technology.

**CAPITOL PHYSICIAN**

Senator Ogden was recognized and presented Dr. Henry J. Boehm of Brenham as the "Doctor for the Day."

The Senate welcomed Dr. Boehm and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

**SENATE RESOLUTION 181**

Senator Cain offered the following resolution:

WHEREAS, The Senate of the State of Texas takes pride in recognizing the members of Leadership Waxahachie on the occasion of their visit to the State Capitol February 18, 1997; and

WHEREAS, Initiated by the Waxahachie Chamber of Commerce, Leadership Waxahachie aims at providing citizens the opportunity to learn more about their roles as leaders in business and industry and more about their community and state and local government; and

WHEREAS, Members of Leadership Waxahachie are outstanding citizens and civic leaders who are dedicated to enhancing the relationship between governmental entities and community organizations; and

WHEREAS, Members of the group make an annual trip to Austin to view state government in action during the sessions and better acquaint themselves with current issues and state agencies during the interim; and

WHEREAS, The Senate is honored to have these distinguished guests visiting the Capitol and observing governmental procedures; the 1996 Leadership Waxahachie members are Candace Ahlfinger, Lacy Buckingham, Martha Fenton, Sharon Shawn, Vivan Holubec, Dr. Charlie Osborn, Cindy Crowder, Kineta Halford, Tony Spaniel, and Jeff Wallace and cochairmen Melissa Morrison and Nick Hester; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby commend the members of Leadership Waxahachie and extend to them a warm welcome to Austin and to the Capitol; and, be it further

RESOLVED, That a copy of this Resolution be prepared for them as an expression of esteem from the Texas Senate.

CAIN  
NELSON

The resolution was read and was adopted by a viva voce vote.

#### **GUESTS PRESENTED**

Senator Cain was recognized and introduced to the Senate a delegation of members of Leadership Waxahachie.

The Senate welcomed its guests.

#### **SENATE BILL 114 ON SECOND READING**

Senator Brown moved that Section 5 of Article III of the State Constitution and Senate Rule 7.13 be suspended and that **SB 114** be taken up for consideration at this time.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, Whitmire, Zaffirini.

Nays: Moncrief, West.

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended for **SB 114**:

**SB 114**, Relating to the procedural requirements and grounds for reversing a criminal case on appeal.

The bill was read second time.

Senator Shapleigh offered the following committee amendment to the bill:

#### **Committee Amendment No. 1**

Amend **SB 114** by deleting Subsection (b) in Article 44.25 of SECTION 1.

The committee amendment was read and was adopted by a viva voce vote.

**SB 114** as amended was passed to engrossment by a viva voce vote.

#### **SENATE BILL 114 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 114** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, Whitmire, Zaffirini.

Nays: Moncrief, West.

**SB 114** was read third time and was passed by a viva voce vote.

#### RECORD OF VOTES

Senators Moncrief and West asked to be recorded as voting "Nay" on the final passage of the bill.

#### SENATE BILL 329 ON SECOND READING

Senator Brown moved that Section 5 of Article III of the State Constitution and Senate Rule 7.13 be suspended and that **SB 329** be taken up for consideration at this time.

The motion prevailed by the following vote: Yeas 31, Nays 0.

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended for **SB 329**:

**SB 329**, Relating to the offense of making a false report to a peace officer or to an employee of a law enforcement agency.

The bill was read second time.

Senator Brown offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **SB 329** as follows:

In SECTION 1, Section 37.08, Subsection (a)(2), (committee printing, page 1, line 19), between "that" and "is" insert "the actor knows".

The amendment was read and was adopted by a viva voce vote.

**SB 329** as amended was passed to engrossment by a viva voce vote.

#### SENATE BILL 329 ON THIRD READING

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 329** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**SB 329** was read third time and was passed by a viva voce vote.

(Senator Zaffirini in Chair)

#### SENATE BILL 404 ON SECOND READING

Senator Ratliff moved that Section 5 of Article III of the State Constitution and Senate Rule 7.13 be suspended and that **SB 404** be taken up for consideration at this time.

The motion prevailed by the following vote: Yeas 31, Nays 0.

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended for **SB 404**:

**SB 404**, Relating to the quorum requirements for the board of directors of the Cypress Valley Navigation District.

The bill was read second time and was passed to engrossment by a viva voce vote.

#### **SENATE BILL 404 ON THIRD READING**

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 404** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**SB 404** was read third time and was passed by the following vote: Yeas 31, Nays 0.

**(President in Chair)**

#### **SENATE BILL 407 ON SECOND READING**

Senator Harris moved that Section 5 of Article III of the State Constitution and Senate Rule 7.13 be suspended and that **SB 407** be taken up for consideration at this time.

The motion prevailed by the following vote: Yeas 31, Nays 0.

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended for **SB 407**:

**SB 407**, Relating to minimum standards, records, suspension or revocation of a license, and administrative penalties for abortion facilities.

The bill was read second time and was passed to engrossment by a viva voce vote.

#### **SENATE BILL 407 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 407** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**SB 407** was read third time and was passed by a viva voce vote.

#### **GUESTS PRESENTED**

Senator Brown was recognized and introduced to the Senate a delegation of Texas Game Wardens.

The Senate welcomed its guests.

#### **CONGRATULATORY RESOLUTIONS**

**SR 173** - by Wentworth: Congratulating the Texas Silver-Haired Legislature.



**SR 196** - by Bivins: Congratulating Charles W. Greenawalt of Hereford.

**SR 197** - by Carona: Congratulating Dallas National Bank.

**SR 200** - by Cain: Congratulating Ebbie J. and Elsie Andrews of Martins Mill.

#### **MISCELLANEOUS RESOLUTION**

**SR 177** - By Brown: Declaring February 26, 1997, Fort Bend County Day.

#### **ADJOURNMENT**

On motion of Senator Truan, the Senate at 12:47 p.m. adjourned until 11:30 a.m. tomorrow.

---

#### **APPENDIX**

---

#### **COMMITTEE REPORTS**

The following committee reports were received by the Senate:

February 18, 1997

**FINANCE — SCR 3, SJR 20, SJR 22, SB 344**

**JURISPRUDENCE — SB 261, SB 302, SB 320, SB 333, SB 348, SB 415**

**FINANCE — SB 328 (Amended)**

